

SENATE, No. 1208

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED FEBRUARY 24, 2004

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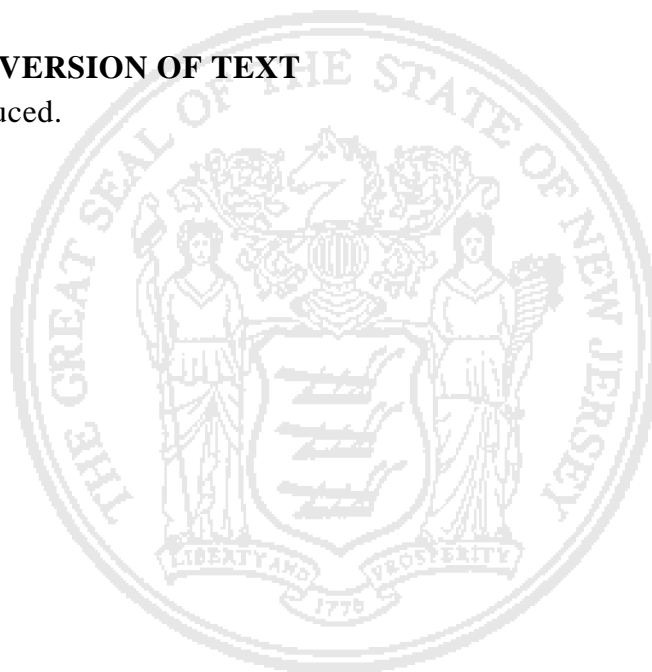
Senator Coniglio

SYNOPSIS

Clarifies certain exception from publication on sex offender Internet registry.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2004)

1 **AN ACT** concerning public access to sex offender Internet registry
2 information about certain offenders and amending P.L.2001, c.167.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read as
8 follows:

9 2. a. Pursuant to the provisions of this section, the Superintendent
10 of State Police shall develop and maintain a system for making certain
11 information in the central registry established pursuant to subsection
12 d. of section 4 of P.L.1994, c.133 (C.2C:7-4) publicly available by
13 means of electronic Internet technology.

14 b. The public may, without limitation, obtain access to the Internet
15 registry to view an individual registration record, any part of, or the
16 entire Internet registry concerning all offenders whose risk of
17 re-offense is high or for whom the court has ordered notification in
18 accordance with paragraph (3) of subsection c. of section 3 of
19 P.L.1994, c.128 (C.2C:7-8), regardless of the age of the offender.

20 c. Except as provided in subsection d. of this section, the public
21 may, without limitation, obtain access to the Internet registry to view
22 an individual registration record, any part of, or the entire Internet
23 registry concerning offenders whose risk of re-offense is moderate and
24 for whom the court has ordered notification in accordance with
25 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
26 (C.2C:7-8).

27 d. The individual registration record of an offender whose risk of
28 re-offense has been determined to be moderate and for whom the court
29 has ordered notification in accordance with paragraph (2) of
30 subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be
31 made available to the public on the Internet registry if the sole sex
32 offense committed by the offender which renders him subject to the
33 requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the
34 following:

35 (1) An adjudication of delinquency for any sex offense as defined
36 in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

37 (2) A conviction or acquittal by reason of insanity for a violation
38 of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in which the
39 offender was related to the victim by blood or affinity to the third
40 degree or was a foster parent, a guardian, or stood in loco parentis
41 within the household; or

42 (3) A conviction or acquittal by reason of insanity for a violation
43 of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which the victim

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 assented to the commission of the offense but by reason of age was
2 not capable of giving lawful consent.

3 For purposes of this subsection, "sole sex offense" means a single
4 conviction, adjudication of guilty or acquittal by reason of insanity, as
5 the case may be, for a sex offense which involved no more than one
6 victim, no more than one occurrence or, in the case of an offense
7 which meets the criteria of paragraph (2) of this subsection, members
8 of no more than a single household.

9 e. Notwithstanding the provisions of paragraph d. of this
10 subsection, the individual registration record of an offender to whom
11 an exception enumerated in paragraph (1), (2) or (3) of subsection d.
12 of this section applies shall be made available to the public on the
13 Internet registry if the State establishes by clear and convincing
14 evidence that, given the particular facts and circumstances of the
15 offense and the characteristics and propensities of the offender, the
16 risk to the general public posed by the offender is substantially similar
17 to that posed by offenders whose risk of re-offense is moderate and
18 who do not qualify under the enumerated exceptions.

19 f. The individual registration records of offenders whose risk of
20 re-offense is low or of offenders whose risk of re-offense is moderate
21 but for whom the court has not ordered notification in accordance with
22 paragraph (2) of subsection c. of section 3 of P.L.1994, c.128
23 (C.2C:7-8) shall not be available to the public on the Internet registry.

24 g. The information concerning a registered offender to be made
25 publicly available on the Internet shall include: the offender's name and
26 any aliases the offender has used or under which the offender may be
27 or may have been known; any sex offense as defined in subsection b.
28 of section 2 of P.L.1994, c.133 (C.2C:7-2) for which the offender was
29 convicted, adjudicated delinquent or acquitted by reason of insanity,
30 as the case may be; the date and location of disposition; a brief
31 description of any such offense, including the victim's gender and
32 indication of whether the victim was less than 18 years old or less than
33 13 years old; a general description of the offender's modus operandi,
34 if any; the determination of whether the risk of re-offense by the
35 offender is moderate or high; the offender's age, race, sex, date of
36 birth, height, weight, hair, eye color and any distinguishing scars or
37 tattoos; a photograph of the offender and the date on which the
38 photograph was entered into the registry; the make, model, color, year
39 and license plate number of any vehicle operated by the offender; and
40 the street address, zip code, municipality and county in which the
41 offender resides.

42 (cf: P.L.2001, c.167, s.2)

43
44 2. This act shall take effect immediately.

STATEMENT

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2
3 P.L.2001, c.167 (C.2C:7-12 et seq.) established the sex offender
4 Internet registry under Megan's Law. Under this law, the public may
5 obtain all information concerning sex offenders whose risk of re-
6 offense is high. The public also may obtain information concerning sex
7 offenders whose risk of re-offense is moderate, unless the sole sex
8 offense committed by the offender was: (1) an offense committed as
9 a juvenile; (2) an incest offense; or (3) a statutory sex offense where
10 the victim assented but by reason of age could not lawfully consent.
11 These narrow exceptions apply to sex offenders deemed to be a
12 moderate risk of re-offense who have committed no more than a single
13 "Megan's Law" sex offense which falls into one of the three
14 enumerated categories. In rulings concerning these exceptions, courts
15 have varied on the meaning of the "sole sex offense" requirement. For
16 example, some courts have construed this term to apply to offenses
17 which involved only a single incident or occurrence, or no more than
18 one victim. Other courts have construed this term more broadly,
19 considering the term to contemplate the character, rather than the
20 number of offenses committed by a defendant, and therefore applying
21 the exception to offenders who had one conviction which involved
22 multiple incidents or victims but which were consolidated into separate
23 counts of a single indictment.
24 This bill clarifies the legislative intent by defining "sole sex offense"
25 as a single conviction, adjudication of guilty or acquittal by reason of
26 insanity, as the case may be, for a sex offense which involved no more
27 than one victim, no more than one occurrence or, in the case of the
28 incest exception, members of no more than a single household. This
29 clarification will help ensure that the statutory exemption from
30 inclusion on the Internet registry is not improperly applied to repeat
31 sex offenders who offend against more than one victim or who
32 victimize a single individual more than once.